

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MEDITERRANEAN SHIPPING CO. S.A.  
and MEDITERRANEAN SHIPPING CO.  
(USA) INC.,

1:07-cv-10325-DAB

Plaintiff(s),

-against-

SARCONA MANAGEMENT, INC.,

Defendant(s).

AFFIDAVIT IN RESPONSE TO THE  
COURT'S ORDER TO SHOW CAUSE

STATE OF NEW YORK :  
: SS.:  
COUNTY OF NEW YORK :

JORGE A. RODRIGUEZ, being duly sworn, deposes and says:

1. I am a member of the bar of this Honorable Court and a partner with the firm of MAHONEY & KEANE, LLP, attorneys for Plaintiffs herein. I am familiar with the circumstances of the Complaint and the underlying cause of action.

2. I make this Affidavit in response to the Court's Order to Show Cause, dated June 4, 2008, wherein the Court asked that Plaintiff show good cause why this matter should not be dismissed.

3. Herewith attached are copies true copies of recent correspondence between Plaintiff and Defendant's counsel. (See Exhibit A).

4. Plaintiff commenced this action against Defendant SARCONA MANAGEMENT, seeking unpaid per diem detention charges accrued against SARCONA.

5. We have been engaged in settlement conversations with Defendant's counsel, Mr. Larry M. Cole, Esq., of the law firm STARR, GERN, DAVIDSON & RUBIN, PC., 105

Eisenhower Parkway, Roseland, NJ 07068.

6. Upon receipt of the Court's Order to Show Cause, we contacted Defendant's counsel, and requested that an Answer be filed within the time permitted by the Court.

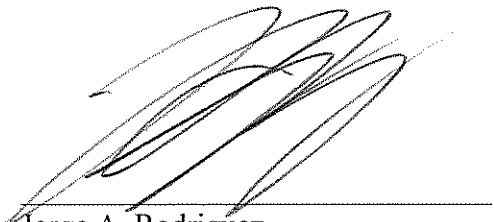
7. Mr. Cole responded by asking that the matter be settled rather than continuing with the litigation.

8. In light of Mr. Cole's request, we continued to engage in settlement discussions.

9. Despite Plaintiff's numerous attempts at resolving the dispute, the parties have not been able to come to an agreement. As such, Plaintiff has provided Defendant until the end of this week to file an answer. If no answer is filed, the undersigned will move for a default judgment.

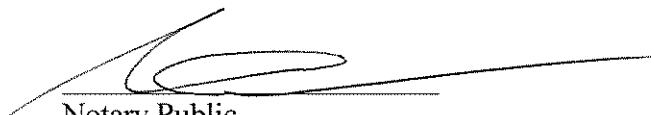
10. As can be discerned, Plaintiff has shown good cause for this action not to be dismissed, as Plaintiff has not abandoned this action, but rather, has attempted to resolve this matter without further intervention by the Court.

11. As such, the undersigned respectfully requests that the Court abstain from dismissing this matter.

  
Jorge A. Rodriguez

Sworn to before me this

2 day of July, 2008

  
Notary Public  
GARTH S. WOLFSON  
NOTARY PUBLIC  
State of New York No. 02W05076949  
Qualified in New York County  
Term Expires 4/28/2011

# Exhibit A

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## Jorge Rodriguez

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**From:** Jorge Rodriguez [jrodriguez@mahoneykeane.com]  
**Sent:** Tuesday, July 01, 2008 2:58 PM  
**To:** 'Larry Cole'  
**Subject:** RE: Med Shipping v. Sarcoa

Mr. COLE:

Have you heard from your clients yet?

jr

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Jorge Rodriguez [mailto:jrodriguez@mahoneykeane.com]  
**Sent:** Monday, June 30, 2008 3:07 PM  
**To:** 'Larry Cole'  
**Subject:** RE: Med Shipping v. Sarcoa

Mr. COLE:

As it seems that we will not be able to settle this matter before the Court's deadline of July 2, 2008, I ask that your client file an answer to Plaintiff's Complaint by the end of this week. If no such answer is forthcoming, Plaintiff will move for default.

Thanks and regards,

Jorge A. Rodriguez/s/

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Larry Cole [mailto:LCole@starrgern.com]  
**Sent:** Thursday, June 26, 2008 9:35 AM  
**To:** Jorge Rodriguez  
**Subject:** RE: Med Shipping v. Sarcoa

Called again yesterday. It may be that one of us is at least \$1000 off. I hope to hear today. Larry

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**From:** Jorge Rodriguez [mailto:jrodriguez@mahoneykeane.com]  
**Sent:** Wednesday, June 25, 2008 7:36 PM  
**To:** Larry Cole  
**Subject:** RE: Med Shipping v. Sarcoa

Mr. Cole:

Any word yet?

jr

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Larry Cole [mailto:LCole@starrgern.com]  
**Sent:** Monday, June 23, 2008 2:04 PM  
**To:** Jorge Rodriguez  
**Subject:** RE: Med Shipping v. Sarcoa

Jorge: I have spoken to the client and am awaiting response. I'll be back to you asap. Larry

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**From:** Jorge Rodriguez [mailto:jrodriguez@mahoneykeane.com]  
**Sent:** Monday, June 23, 2008 11:52 AM  
**To:** Larry Cole  
**Subject:** FW: Med Shipping v. Sarcoa

Mr. Cole:

My client has reviewed the records, and, as of today, can only confirm settlement payments from your office through 6/5, with a balance of \$4860. Given such, I propose that we stipulate to settle for \$4860, and we will credit your client once the 6/11 check is received and processed. In the meantime, I would communicate with the Court, and ask that they grant a 60 day order of dismissal, so that the terms of the settlement can be effected.

I will forward the closing documents once I have your agreement.

Thanks and regards,

Jorge A. Rodriguez/s/

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Jorge Rodriguez [mailto:jrodriguez@mahoneykeane.com]  
**Sent:** Friday, June 13, 2008 4:22 PM  
**To:** 'Jorge Rodriguez'  
**Subject:** RE: Med Shipping v. Sarcoa

Mr. COLE:

In reference to ours below, could you let us know ASAP what your client's position is on settling the claim?

Jorge A. Rodriguez/s/

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Jorge Rodriguez [mailto:jrodriguez@mahoneykeane.com]  
**Sent:** Wednesday, June 11, 2008 6:21 PM  
**To:** 'Larry Cole'  
**Subject:** RE: Med Shipping v. Sarcoa

Mr. Cole:

MSC has checked their figures. According to such findings, your client has paid \$14,000.00 and still has a balance of **\$6,860.00**.

Thanks and regards,  
Jorge A. Rodriguez/s/

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Larry Cole [mailto:LCole@starrgern.com]  
**Sent:** Wednesday, June 11, 2008 10:05 AM  
**To:** Jorge Rodriguez  
**Subject:** RE: Med Shipping v. Sarcoa

Jorge, Please get to me with your answer sooner than Friday. The amount I believe to be involved doesn't warrant even filing an answer. If you want to prepare a settlement agreement, get it to me. Larry

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**From:** Jorge Rodriguez [mailto:jrodriguez@mahoneykeane.com]  
**Sent:** Tuesday, June 10, 2008 3:18 PM

**To:** Larry Cole  
**Subject:** RE: Med Shipping v. Sarcoa

Dear Mr. Cole:

I note yours below, and have forwarded your inquiry to my client. Hopefully we will have that information within the next few days

Thanks and regards  
Jorge A. Rodriguez/s/

Jorge A. Rodriguez, Esq. \* Mahoney & Keane, LLP. \* 11 Hanover Square, 10th Floor \* New York, New York 10005

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**From:** Larry Cole [mailto:LCole@starrgern.com]  
**Sent:** Tuesday, June 10, 2008 2:55 PM  
**To:** jrodriguez@mahoneykeane.com  
**Subject:** Med Shipping v. Sarcoa

Jorge,  
Got your message about Friday. My client has made further payments, all of which total \$17000. Please confirm this fact and let me know the balance due. Once we have a confirmation on the balance it will be paid (hopefully before friday) and we can end this thing.

Larry M. Cole, Esq.  
Starr, Gern, Davison & Rubin, P.C.  
105 Eisenhower Parkway  
Roseland, New Jersey 07068  
Telephone 973-403-9200  
Facsimile 973-226-0031